IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Revision No. 166 of 2007.

Date of decision October 10, 2007.

Des Raj …..**Petitioner.**

Versus

Mahavir Parshad …..**Respondent.**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud, J.

Whether approved for reporting?[1] *No.*

For the Petitioner: **Mr. Sanjeev Kuthiala, Advocate.**

For the Respondent: **Mr. N.K.Thakur, Advocate.**

Dev Darshan Sud, J. (Oral).

The Judgment Debtor has preferred this revision against the order of learned Executing Court passed on 12.9.2007 dismissing objections preferred by the petitioner – Judgment Debtor. Prior to this, the judgment debtor had petitioned this court in Civil Revision 43 of 2002 challenging the execution of the decree on various grounds including the fact that the execution petition did not disclose the identity of the property. This

---

[1] ***Whether reports of Local Papers may be allowed to see the judgment? Yes.***

Court while dismissing the revision petition held that executing Court will direct the decree holder to file a spot map of the property which was the subject matter of the suit. The operative part of the directions is reproduced:

> **"This revision is disposed of with direction that the executing Court will direct the Decree Holder to file spot map of the property as described in para 14 of the plaint. In case of any ambiguity, the Judgment Debtor will be called upon to show the property in his possession which he admits is in his occupation as averred in Para 14 of his written statement. The execution petition is disposed of in these terms. There shall be no order as to costs. Needless to say that the petition will be disposed of expeditiously by the executing Court as the matter has been pending in various Courts for a period of more than 20 years."**

In the order impugned in this revision, the executing Court holds that the decree holder has filed a spot map which is objected to by the Judgment Debtor. It holds that in case the spot map filed by the decree holder is in consonance with the description of the suit property in the plaint

for which he was granted a decree, the judgment debtor could not object to the execution of the decree.

Learned counsel appearing for the decree holder has urged that the order is illegal and is not in consonance with the directions which had been passed by this Court. He submits that in the guise of executing the decree, the decree holder is now seeking to take the property of the judgment debtor which was not subject matter of the suit.

I do not find any perversity in the order passed by the learned Executing Court, nor do I find any error of law having been committed by the Court calling for intervention by me under Section 115 of the Code of Civil Procedure. Needless to say that the decree can be executed only regarding that portion of the property which is the subject matter of the suit. This petition is accordingly dismissed. All pending applications shall stand dismissed.

October 10, 2007(PC). (Dev Darshan Sud), J.